

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 IRVIN T. TATUM,) No. C 10-0418 LHK (PR)
12 Plaintiff,) ORDER GRANTING
13 v.) DEFENDANTS' MOTION FOR
14 T. PUGET, et al.,) A STAY OF DISCOVERY
15 Defendants.)

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Plaintiff, a state prisoner proceeding *pro se*, filed a civil rights complaint pursuant to 42 U.S.C. § 1983 alleging that various Pelican Bay State Prison ("PBSP") officials violated his constitutional rights. Defendants have filed a motion to dismiss, and Plaintiff has filed an opposition to the motion. Concurrently, Defendants also filed a motion for a stay of discovery pending the Court's ruling on the motion to dismiss. Plaintiff has not filed an opposition. For the reasons stated below, Defendants' motion is GRANTED.

DISCUSSION

Defendants moved to dismiss this action on the ground that Plaintiff has asserted unrelated claims against different defendants, in violation of Rule 18(a) and Rule 20(a). Fed. R. Civ. P. 18(a), 20(a). A district court has broad discretion to stay discovery pending the disposition of a dispositive motion. *See Panola Land Buyers Ass'n v. Shuman*, 762 F.2d 1550, 1560 (11th Cir. 1985); *see also Little v. City of Seattle*, 863 F.2d 681, 685 (9th Cir. 1988).

In *Lowery v. F.A.A.*, the Eastern District of California set forth a two-pronged test to determine whether a protective order should issue, staying discovery. 1994 WL 912632, *3 (E.D.Cal. 1994). First, a pending motion must be potentially dispositive of the entire case, or at least dispositive on the issue at which discovery is directed. *See Panola*, 762 F.2d at 1560. And, second, the court must determine whether the pending dispositive motion can be decided absent discovery. *See Lowery*, 1994 WL 912632 at *3.

Here, Defendants satisfy both requirements. First, their motion to dismiss, if meritorious, could potentially dispose of the entire case. Second, any discovery is unnecessary for resolution of the motion. Accordingly, the Court GRANTS Defendants' motion for a stay of discovery until disposition of Defendants' motion to dismiss. If, after the Court's ruling, the motion has not disposed of this action, the Court will lift the stay.

CONCLUSION

Accordingly, Defendants' motion for a stay of discovery pending a ruling on their motion to dismiss is GRANTED. Discovery is STAYED until further order of the Court.

IT IS SO ORDERED.

DATED: 2/4/11

Lucy H. Koh
LUCY H. KOH
United States District Judge